

PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q91343

Kazumi DANJO, et al.

Application No.: 10/560,169

Group Art Unit: 4161

Confirmation No.: 9404

Examiner: Ivan A. Greene

Filed: December 9, 2005

For: RADIAL SPHERICAL CRYSTALLIZATION PRODUCT, PROCESS FOR
PRODUCING THE SAME, AND DRY POWDER PREPARATION CONTAINING THE
CRYSTALLIZATION PRODUCT

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This responds to the Restriction Requirement, dated September 25, 2008.

In response to the Restriction Requirement, Applicants elect Group I, claims 1-12 and 20-
21. This election is made with traverse, for at least the reasons discussed below.

Basis for traversal

Applicants have elected Group I. However, the election is made with traverse because
Applicants respectfully submit that Group I and Group II should be examined together.

In the Office Action, it is asserted that the inventions listed as Groups I and II do not
relate to a single general inventive concept under PCT Rule 13.2 because they lack the same or
corresponding special technical features.

The Office further asserts that the special technical feature common to the two groups is the radial spherical crystallization product, and this element cannot be a special technical feature because it is shown in the prior art, Devery et al. ("Morphological changes is a series of synthetic Mg-calcites", *American Meteorologist*, Vol. 66, pp 592-595, 1981), and therefore, there is no unity of invention between Groups I and II.

The Examiner asserts that a radial spherical crystallization product comprising needle-shaped projections radiating from the crystal core is disclosed in Devery, because Devery discloses morphological changes in a series of synthetic Mg-calcites and the needle-like morphology results from growth of Mg-calcite crystals in silica gel at pH values above 9.6.

Applicants submit that, contrary to Devery, the present invention is directed towards pharmaceutical drug formulations which are processed to produce the "radial spherical crystallization product."

A Preliminary Amendment is being submitted concurrently herewith. Upon entry of the Preliminary Amendment, independent claims 1, 4 and 13 will recite that the sample component of the radial spherical crystallization product is a pharmaceutical drug or a drug carrier, and the common technical feature in the two groups, not shown in the prior art, will be a *radial spherical crystallization product in which the sample component is a pharmaceutical drug or a drug carrier*. Therefore, Groups I and II will relate to a single general inventive concept.

In view of the above, Applicants respectfully submit that Groups I and II are closely related, and therefore should be examined together.